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Paper No. 12

Hewlett Packard Company
P.O. Box 272400, 3404 E. Harmony Road
Intellectual Property Administration
Fort Collins, CO 80527-2400

In re Application of:
Stephen J. Sicola et al.
Application No. 09/538,700
Filed: March 30, 2000
For: METHOD FOR TRANSMISSION LOG
FAILOVER MERGING DURING
ASYNCHRONOUS OPERATIONS IN A
DATA STORAGE NETWORK

DECISION ON PETITION
UNDER 37 CFR §1.181 TO
WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed 02 April 2004 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office action mailed 02 June 2003 (paper no. 9). A Notice of Abandonment was mailed 04 February 2004 (paper no. 10).

In support of the petition, Petitioner provides a copy of (1) a "Request for Continued Examination", (2) a facsimile cover sheet including a "Certificate of Transmission", signed by William J. Kubida and dated 02 September 2003 and (3) a transmission confirmation report.

37 CFR 1.8(b) sets forth in relevant part that "[in] the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided without prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

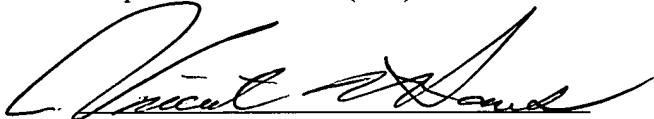
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement."

The present petition does not include a statement from the party who transmitted the correspondence (i.e. the individual who signed the certificate of transmission and transmitted the

facsimile) which attests on a personal knowledge basis to the previous timely mailing. Accordingly, the Petition is **DISMISSED**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

A handwritten signature in black ink, appearing to read "Vincent N. Trans", written over a horizontal line.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750